

1 Rogers, Kim Edward

2 2072 50th Avenue

3 Sacramento, CA 95822

4 Plaintiff, Pro Se

FILED

MAY 27 2022

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY
DEPUTY CLERK

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8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 2:22-CV-0914-TLN-AC (PS)

11 Rogers, Kim Edward)

12 Plaintiff,)

13 v.)

14 KATHERINE LESTER,)

15 SACRAMENTO POLICE CHIEF;)

16 K. SIMMONS, #693,)

17 P. FONG, #3015,)

18 Et Al.)

19 Defendant(s).)

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**COMPLAINT FOR VIOLATION
OF CIVIL RIGHTS UNDER
42 U.S.C. § 1983
DECLARATORY RELIEF,
INJUNCTIVE RELIEF, AND
MONETARY DAMAGES**

COMPLETE LIST OF DEFENDANTS

KATHERINE LESTER, SACRAMENTO POLICE CHIEF
5770 FREEPORT BOULEVARD
SACRAMENTO, SACRAMENTO
CALIFORNIA 95822
Official Capacity

K. SIMMONS, #693, SACRAMENTO POLICE OFFICER
5303 FRANKLIN BOULEVARD
SACRAMENTO, SACRAMENTO
CALIFORNIA 95820
Individual and Official Capacity

P. FONG, #3015, SACRAMENTO POLICE OFFICER
5303 FRANKLIN BOULEVARD
SACRAMENTO, SACRAMENTO
CALIFORNIA 95820
Individual and Official Capacity

JOHN DOE #1 - #10, SACRAMENTO POLICE OFFICER
5303 FRANKLIN BOULEVARD
SACRAMENTO, SACRAMENTO
CALIFORNIA 95820
Individual and Official Capacity

I. INTRODUCTION

1. This is a lawsuit seeking declaratory, injunctive and monetary relief against the Sacramento Police Department, South Area Command Joseph E. Rooney Division (SPD) for engaging in and condoning a continuing pattern and practice of race-based stops, detentions and searches of African-American motorists traveling on the public streets of Sacramento and of the State of California. The specific abuses giving rise to this action occurred on or in Sacramento Police Department (SPD) South Area Command Joseph E. Rooney Division. The specific abuses giving rise to this action occurred on or in the area of Franklin Boulevard, Florin Road, and Martin Luther King Boulevard, in Sacramento, including, but not limited to, the area where Highway 99 intersects with Interstate 5 and residential streets in South Sacramento.

2. Plaintiff in this case, Kim Edward Rogers ("Mr. Rogers"), represent African-Americans who have been or will be subjected to the humiliation of being targeted, interrogated, detained and searched by defendants in (SPD)'s South Sacramento Division due to the defendants' policy and practice of what is commonly known as "racial profiling." The moment Plaintiff was stopped by the defendants he became the victim of what

1 is "an all too familiar set of circumstances - an
2 intrusive law enforcement stop and seizure of innocent
3 persons on the basis of suspicions rooted principally
4 in the race of the 'suspects.'

5
6 3. To any person of color, regardless of ethnic
7 background, level of education, or economic station in
8 life, the insidious problem of racial profiling by law
9 enforcement officers is all too familiar. It is a
10 continuing reminder that, despite popular notions of
11 progress in race relations, racial discrimination
12 remains a day-to-day reality in our society.

13 4. By the Complaint in this action, Plaintiff seeks
14 judicial redress for violations of his civil rights due
15 to racial profiling. But he also seeks to confirm what
16 everyone has a right to expect in the United States:
17 that people of color may use the public streets and
18 highways, just like anybody else, without having to
19 suffer the indignities of racial discrimination at the
20 hands of government officials.

21
22 5. Plaintiffs' claims are brought pursuant to the
23 Fourth and Fourteenth Amendments to the United States
24 Constitution; Equal Protection Clause of the U.S.
25 Constitution; Omnibus Crime Control and Safe Streets
26 Act of 1968; Title VI of the Civil Rights Act of 1964
27 and its implementing regulations, 42 U.S.C. §§ 1981,
28 1982, 1983 and 1986; Article 1, §§ 7(a) and 13 of the

1 California Constitution; California Civil Code § 52.1;
2 California Government Code §§ 11135 and 11139.

3
4 II. JURISDICTION

5 6. This court has subject matter jurisdiction pursuant
6 to 28 U.S.C. §§ 1331, 1343 (3) and 2201. The Court has
7 pendent jurisdiction and supplemental jurisdiction over
8 the state law claims alleged in this Complaint pursuant
9 to 28 U.S.C. § 1367. Declaratory relief is authorized
10 under 28 U.S.C. §§ 2201 and 2202.

11
12 7. A substantial part of the events giving rise to the
13 claims alleged in this Complaint arose in the County of
14 Sacramento, California. Venue therefore lies in the
15 United States District Court for the Eastern District
16 of California Division, pursuant to 28 U.S.C. § 84(a),
17 28 U.S.C. § 1391(b)(2) and Civil Local Rule 3-2(d).

18 III. PARTIES

19
20 8. Plaintiff, Kim Edward Rogers, is and at all
21 relevant times herein mentioned is a citizen of the
22 United States and State of California and a resident of
23 the County of Sacramento. Mr. Rogers is of African-
24 American descent and, by physical appearance, is a
25 person of color and participates as Plaintiff for the
26 purpose of securing monetary, declaratory and
27 injunctive relief.
28

1 9. Defendant Sacramento Police Department,
2 headquartered in Sacramento, California is a division
3 of the City of Sacramento in charge of patrolling
4 public streets. Upon information and belief, the (SPD)
5 receives federal funds through federal grants from the
6 United States Department of Justice or another federal
7 agency. As such, the (SPD) is legally required to
8 conduct its activities in a racially non-discriminatory
9 manner.

10 10. Upon information and belief Katherine Lester sued
11 here in her official capacity, is a resident of
12 California. All Actions taken by defendant Chief of
13 Police Katherine Lester while working as Supervisor of
14 the (SPD) were taken under color of state law. Upon
15 information and belief, defendant failed adequately to
16 train (SPD) personnel and to promulgate appropriate
17 policies to prevent race-based vehicular stops, and has
18 established, implemented and enforced illegal and
19 unconstitutional policies and practices that have
20 caused Plaintiffs' injuries.

21
22 11. Upon information and belief, defendant Katherine
23 Lester is a resident of California. Upon information
24 and belief, defendant directly or indirectly
25 participated in the authorization, planning and
26 supervision of the actions of the individual (SPD)
27 officers involved in this case.

1 12. Upon information and belief, Sacramento Police
2 Officer, K. Simmons, #693, sued here in both his
3 individual and official capacities, is a resident of
4 California who is employed by the (SPD). Officer
5 Simmons was involved in the stop of Plaintiff. All
6 actions taken by Officer Simmons while working as an
7 officer of the (SPD) were taken under color of local
8 city and state laws.

9
10 13. Upon information and belief, Sacramento Police
11 Officer, P. Fong, #3015, sued here in both his
12 individual and official capacities, is a resident of
13 California who is employed by the (SPD). Officer
14 Simmons was involved in the stop of Plaintiff. All
15 actions taken by Officer Simmons while working as an
16 officer of the (SPD) were taken under color of local
17 city and state laws.

18 14. Upon information and belief, Sacramento Police
19 Officers, John Doe #1 - 10, sued here in both their
20 individual and official capacities, are residents of
21 California employed by the (SPD). All actions taken by
22 John Doe while working as an officer of the (SPD) were
23 taken under color of local city and state laws.

24
25 15. Upon information and belief, at all relevant times
26 each defendant was the agent and/or employee of each of
27 the remaining defendants, and in doing the things
28 herein alleged was acting within the course and scope

1 of his or her employment and under color of law. Each
2 of the defendants caused, and is responsible for, the
3 unlawful conduct described herein. Each defendant is
4 responsible for Plaintiffs' injuries by personally
5 participating in the unlawful conduct; acting jointly
6 and in concert with others who did so; authorizing,
7 acquiescing or failing to take action to prevent the
8 unlawful conduct; promulgating policies and procedures
9 pursuant to which the unlawful conduct occurred;
10 failing and refusing, with deliberate indifference, to
11 implement and maintain adequate training and
12 supervision; and/or by ratifying the unlawful conduct.

13 16. All of the defendants, and each of them, are sued
14 both in their individual and official capacities.
15

16 IV. FACTS GIVING RISE TO THIS ACTION
17

18 17. The (SPD) have long relied upon race and ethnicity
19 in conducting stops, detentions, interrogations and
20 searches of motorists. They have engaged in an
21 unabated, continuing pattern and practice of
22 discrimination.

23 18. In recent years, the law enforcement practice of
24 targeting motorists on the basis of race or ethnicity
25 has increased dramatically nationwide, largely due to
26 federally funded programs operated by state and local
27 law enforcement agencies. Police officers constantly
28

1 pull over cars driven by African-Americans, for certain
2 traffic violations, but rarely pull over white drivers
3 for the same violations.

4
5 19. As a matter of policy, officers are encouraged to
6 use vehicle code violations such as weaving, improper
7 lane changes, burned out license plate lights, tinted
8 windows, following too closely or seat belt violations,
9 as excuses to stop African-American drivers and attempt
10 to search their cars for drugs or other illegal
11 activity. Once the officers have an excuse for the
12 stop, they are trained to begin questioning and
13 searching the occupants of the vehicle.

14 20. (SPD) policy permits officers to detain a motorist
15 during any traffic stop for the purpose of conducting a
16 search. Pursuant to this policy, (SPD) officers
17 routinely detain motorists for the purpose of searching
18 their vehicles, even though the officers have no
19 probable cause, or even reasonable suspicion, that the
20 motorists are carrying illegal drugs or engaged in any
21 criminal activity. These searches involve significant
22 intrusion, humiliation, embarrassment and great
23 inconvenience for thousands of innocent motorists, but
24 the practice is condoned and encouraged by all
25 Defendants and (SPD) supervisors and management.

26
27 21. (SPD) officers use the aforementioned set of
28 techniques in one flowing sequence that is designed to

1 end in a search. Officers select and deploy the
2 techniques as they deem appropriate in order to
3 maximize the chances for a search.

4
5 22. The practice of stopping and searching innocent
6 motorists would be alarming no matter who was subjected
7 to this kind of treatment by government officials. The
8 reality, however, is that motorists of color,
9 particularly African-American motorists, are targeted
10 and subjected to these practices at grossly
11 disproportionate rates. (SPD) officers, consistent
12 with their training, are determining who to stop,
13 detain, interrogate and/or search in a racially
14 discriminatory manner.

15 23. Plaintiff alleges that all Defendants and (SPD)
16 supervisors have been aware (SPD) officers are engaging
17 in racial profiling, yet have failed and refused to
18 stop it, thereby showing deliberate indifference to the
19 rights of African-American motorists. The supervisory
20 defendants have failed to take effective action to
21 prevent continuation of the egregious pattern of
22 discrimination against African-American motorists,
23 despite their rhetoric to the contrary. Due to the
24 supervisory defendants' inaction, Plaintiff, has
25 suffered and continue to suffer systematic violations
26 of his civil rights.

27
28 The clear discriminatory effect of these practices, and

1 the discriminatory purpose hidden behind the
2 defendants' practice and policy of willful ignorance,
3 is immoral and illegal. These practices must be
4 stopped.

5
6 24. Traffic Stop January 6, 2022

7 On January 6, 2022, Kim Edward Rogers was pulled over
8 by South Sacramento (SPD) on Franklin Road and Martin
9 Luther King Boulevard. Kim Edward Rogers was racially
10 profiled by (SPD) Officer K. Simmons, observing traffic
11 during the day when the racial identity of a driver is
12 more easily identified. Officer Simmons pulled Mr.
13 Rogers over after harassing and tailgating vehicle
14 driven by Plaintiff. This incident ended with Mr.
15 Rogers being deprived of his civil rights due to racial
16 profiling. A copy of the administrative complaint
17 filed by Plaintiff to Sacramento Police Department
18 Internal Affairs Division is attached.

19
20 25. Plaintiff has been very upset since his unjustified
21 stop. It is difficult for him to accept that he was
22 stopped, subjected to unwarranted search and
23 examination.

24 26. Mr. Rogers still lives in South Sacramento,
25 California. He must continue driving on and around
26 Highway 99 and Interstate 5 and residential streets,
27 within (SPD)'s South Area Joseph E. Rooney Division, on
28

1 a daily basis, yet his normal expectation to be free
2 from unwarranted stops has been compromised by his real
3 and legitimate fear that he will be stopped and
4 searched without cause in the future. Based on his
5 experience and the policy and practice of the (SPD) as
6 described above, Plaintiff has a reasonable and
7 justified fear that he will again be subject to race
8 based traffic stops and searches at the hands of the
9 (SPD) when driving on Sacramento public streets in the
10 future.

11
12 V. REQUISITES FOR RELIEF

13 27. As a direct and proximate result of the conduct of
14 defendants described above, Plaintiff has been denied
15 his constitutional and statutory rights as stated below
16 and has suffered and continue to suffer mental and
17 emotional distress, humiliation, embarrassment,
18 discomfort, anxiety and pain.

19
20 28. Defendants' acts were willful, wanton, malicious,
21 oppressive and done with conscious disregard and
22 deliberate indifference for Plaintiffs' rights.
23 Therefore, defendants' actions justify an award to
24 Plaintiff of punitive damages in an amount to be
25 determined.

26 29. Defendants' policies, practices, conduct and acts
27 alleged herein have resulted and will continue to
28

1 result in irreparable injury to Plaintiff, including
2 but not limited to further violations of his statutory
3 and constitutional rights. Plaintiff has no plain,
4 adequate or complete remedy at law to address the
5 wrongs described herein. Plaintiff therefore seeks
6 injunctive relief restraining defendants from
7 continuing to engage in and enforce the
8 unconstitutional and illegal policies, practices,
9 conduct and acts described herein.

10
11 30. Defendants acted with discriminatory intent in
12 violation of Plaintiffs' legal and constitutional
13 rights, and have directly and proximately caused
14 plaintiffs' humiliation, mental pain and suffering. As
15 a direct, legal and proximate result of defendants'
16 violations of Plaintiffs' statutory, constitutional and
17 common law rights, plaintiff has been damaged in an
18 amount which is not yet known. Plaintiff will seek
19 leave of Court to amend this Complaint when
20 ascertained, or will amend to conform to proof at time
21 of trial.

22 31. At all times herein mentioned, defendants had an
23 obligation to comply with federal and state laws
24 regarding racial discrimination. Defendants failed to
25 meet these obligations with respect to Plaintiff.
26
27
28

VI. FIRST CAUSE OF ACTION

Race Discrimination in Federally Funded Programs

Violation of Title VI of the Civil Rights Act of 1964
and 28 C.F.R. §§ 42.101 et seq.

42 U.S.C. § 1983

32. Plaintiff incorporates by reference and reallege
paragraphs 1-31 of this Complaint.

33. Title VI of the Civil Rights Act of 1964, 42 U.S.C.
§ 2000d, provides:

[N]o person in the United States shall, on the ground
of race, color, or national origin, be excluded from
participation in, be denied the benefits of, or be
subjected discrimination under any program or activity
receiving federal financial assistance.

34. Federal regulations implementing Title VI prohibit
federally funded programs or activities from having a
racially discriminatory impact or effect. The
regulations provide that no program receiving financial
assistance through the United States Department of
Justice Shall: Utilize criteria or methods of
administration which have the effect of subjecting
individuals to discrimination because of their race,
color, or national origin, or have the effect of

1 defeating or substantially impairing accomplishment of
2 the objectives of the program as respects individuals
3 of a particular race, color, or national origin.

4
5 35. Defendant (SPD) receives federal financial
6 assistance from the United States Department of
7 Justice, and thus is bound to abide by the terms of
8 Title VI and its implementing regulations, including 28
9 C.F.R. §§ 42.101 et seq.

10 36. The methods employed by the (SPD) have a
11 discriminatory impact on motorists of color traveling
12 through California, including plaintiffs, as described
13 herein, and thereby violate 28 C.F.R. §§ 42.101 et seq.
14 and Title VI. This violation is actionable under 42
15 U.S.C. § 1983. Through their acts and omissions as
16 alleged in this Complaint, defendants have caused the
17 violations of Plaintiffs' rights secured by Title VI
18 and its implementing regulations.

19
20 37. Defendant violation of Title VI and its
21 implementing regulations has caused and will continue
22 to cause Plaintiff to suffer tremendous harm and public
23 humiliation in that he has been and will continue to be
24 subjected to (SPD)'s practice of race-based
25 discrimination in the absence of judicial intervention.
26
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VII. SECOND CAUSE OF ACTION

Intentional Race Discrimination in Federally Funded Programs

Violation of Title VI of the 1964 Civil Rights Act

38. Plaintiff incorporates by reference and reallege paragraphs 1-37 of this Complaint.

39. The (SPD) intentionally discriminates against African-American motorists traveling though California, including plaintiffs, as described herein, in violation of § 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d et seq.

40. Defendant (SPD)'s violation of Title VI has caused and will continue to cause Plaintiff to suffer tremendous harm and public humiliation in that he has been and will continue to be subjected to (SPD)'s practice of race-based discrimination in the absence of judicial intervention.

VIII. THIRD CAUSE OF ACTION

Violation of the Fourteenth Amendment and 42 U.S.C. § 1983

41. Plaintiff incorporates by reference and reallege paragraphs 1-40 of this Complaint.

1 42. Defendants, acting under color of law and in
2 concert with one another, have engaged in a continuing
3 pattern and practice of intentional race discrimination
4 in efforts carried out in the area of (SPD)'s South
5 Sacramento Division. In so doing, defendants have
6 caused Plaintiff, to suffer deprivation of his
7 fundamental rights to liberty and to be free from
8 unlawful searches, detentions and seizures on account
9 of their race and/or national origin. These actions
10 violated Plaintiffs' rights to equal protection of the
11 laws, in violation of the Fourteenth Amendment to the
12 Constitution of the United States and 42 U.S.C. § 1983.

13 43. Defendants acting under color of law, institute,
14 authorize, tolerate, ratify, permit and acquiesce in
15 policies, practices and customs of detention, searches
16 and seizures which involve intentional race
17 discrimination in the provision of law enforcement
18 services.

19
20 44. The defendants' acts were done in knowing violation
21 of plaintiffs' legal and constitutional rights, and
22 have directly and proximately caused plaintiffs'
23 humiliation, mental pain and suffering.

24
25 IX. FOURTH CAUSE OF ACTION

26 Violation of the Fourth and Fourteenth to the United
27 States Constitution 42 U.S.C. § 1983.

1 45. Plaintiff incorporates by reference and reallege
2 paragraphs 1-44 of this Complaint.

3
4 46. Defendants, acting under color of law and in
5 concert with one another, have violated Plaintiffs'
6 rights to be free from unreasonable searches and
7 seizures under the Fourth and Fourteenth Amendments to
8 the United States Constitution. Defendants subjected
9 Plaintiff, to a lengthy detention, interrogation and
10 search, in violation of the Fourth Amendment guarantee
11 against unreasonable searches and seizures, and giving
12 rise to Plaintiffs' claims pursuant to the Fourteenth
13 Amendment and 42 U.S.C. § 1983.

14 47. Defendants, acting under color of law, institute,
15 authorize, tolerate, ratify permit and acquiesce in
16 policies, practices and customs of detentions,
17 interrogations, searches and seizures without probable
18 cause or reasonable, articulable suspicion of crime, in
19 their provision of law enforcement services.

20
21 48. Defendants' acts were done in knowing violation of
22 Plaintiffs' legal and constitutional rights, without
23 good faith, and have directly and proximately caused
24 plaintiffs' humiliation, mental pain and suffering.

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X. FIFTH CAUSE OF ACTION

Violation of the Commerce Clause, Article IV and
Fourteenth Amendment to the United States Constitution
42 U.S.C. § 1983

49. Plaintiff incorporates by reference and reallege
paragraphs 1-48 of this Complaint.

50. Defendants, acting under color of law and in
concert with one another, have caused Plaintiff to be
penalized and deterred in the exercise of his
fundamental right to interstate travel and migration on
account of his race and/or ethnicity and/or national
origin. These actions violated Plaintiffs' right to
travel, in violation of the Commerce Clause and the
Privileges and Immunities Clauses of Article IV and the
Fourteenth Amendment.

51. Defendants, acting under color of law, institute,
authorize, ratify, permit and acquiesce in policies,
practices and customs of detention, searches and
seizures which violate Plaintiffs' fundamental right to
interstate travel.

52. Defendants' acts were done in known violation of
Plaintiffs' legal and constitutional rights, without
good faith, and have directly and proximately caused
Plaintiffs' humiliation, mental pain and suffering.

XI. SIXTH CAUSE OF ACTION

Violation of Title VI of the Civil Rights Acts of 1964, 42 U.S.C. §§ 2000d - 2000d (7) and the nondiscrimination section of the Omnibus Crime Control and Safe Street Acts of 1968, 28 U.S.C. § 3789d(c), prohibit recipients of Department of Justice funds from intimidating or retaliating against anyone because he or she has either taken action or participated in an action to secure rights protected by these laws.

53. Plaintiff incorporates by reference and reallege paragraphs 1-52 of this Complaint.

XII. SEVENTH CAUSE OF ACTION

Violation of 42 U.S.C. § 1981

54. Plaintiff incorporates by reference and reallege paragraphs 1-53 of this Complaint.

55. Defendants, acting under color of law and in concert with one another, have denied Plaintiff his rights to full and equal benefit of the laws and their right to be subject to like punishment under 42 U.S.C. § 1981.

56. Defendants' acts were the result of discriminatory intent, and were done in known violation of Plaintiffs' legal and constitutional rights, without good faith,

1 and have directly and proximately caused Plaintiffs'
2 humiliation, mental pain and suffering.

3
4 XIII. EIGHTH CAUSE OF ACTION

5 Conspiracy to Violate Civil Rights (42 U.S.C. § 1986)

6
7 57. Plaintiff incorporates by reference and reallege
8 paragraphs 1-56 of this Complaint.

9 58. Defendants, acting under color of law and in
10 concert with one another, and by way of a conspiracy
11 among them, have caused Plaintiff, to be denied equal
12 protection of the laws and to be deprived of equal
13 privileges and immunities under the laws, on account of
14 Plaintiffs' race and/or national origin, by subjecting
15 him to legally unjustified and racially discriminatory
16 detention and search. The supervisory defendants had
17 knowledge of the conspiracy to violate Plaintiffs'
18 civil rights and of the violations committed, and had
19 power to prevent these wrongs, but neglected or refused
20 to do so in violation of 42 U.S.C. § 1986.

21
22 59. Defendants' acts were done in knowing violation of
23 Plaintiffs' legal and constitutional rights, and have
24 directly and proximately caused Plaintiffs'
25 humiliation, mental pain and suffering.

XIV. NINTH CAUSE OF ACTION

Violation of Government Code §§ 11135 and 11139

60. Plaintiff incorporates by reference and reallege paragraphs 1-59 of this Complaint.

61. Government Code § 11135(a) prohibits race discrimination in any program or activity that is funded directly by the state or receives any financial assistance from the state.

62. State regulations implementing § 11135 provide that no program receiving financial assistance from the State of California shall have an unjustified discriminatory impact or effect on the basis of race.

63. Defendants (SPD) receive financial assistance from the State of California, and thus is bound to abide by the terms of Government Code §11135 and its implementing regulations.

64. Eleventh Amendment immunity of the State of California, Sacramento city officials and other government officials is waived in enactment of amendments to Government Code § 11139 in the California Civil Rights Amendments of 1999.

65. The methods employed by the (SPD) discriminate against African-American motorists traveling through

1 Sacramento, California, including Plaintiffs, as
2 described herein.

3
4 66. Defendants (SPD)'s violation of Government Code
5 §11135 and its implementing regulations have caused and
6 will continue to cause Plaintiff to suffer tremendous
7 harm and public humiliation in that he has been and
8 will continue to be subjected to (SPD)'s practice of
9 race-based discrimination without judicial
10 intervention.

11 XV. TENTH CAUSE OF ACTION

12
13 Violation of Article 1, § 7 (a) of the California
14 Constitution

15 67. Plaintiff incorporates by reference and reallege
16 paragraphs 1-66 of this Complaint.

17
18 68. Defendants' above-described conduct violated
19 Plaintiffs' rights not to be deprived of due process
20 and equal protection of the laws under Article 1, §
21 7(a) of the California Constitution.

22 XVI. ELEVENTH CAUSE OF ACTION

23
24 Violation of Article 1, § 13 of the California
25 Constitution

26 69. Plaintiff incorporates by reference and reallege
27 paragraphs 1-68 of this Complaint.
28

1 70. Defendants' above-described conduct violated
2 Plaintiffs' rights to be free from unreasonable
3 searches and seizures under Article 1, § 13 of the
4 California Constitution.

5
6 XVII. TWELFTH CAUSE OF ACTION

7 Violation of Civil Code § 52.1(b)

8
9 71. Plaintiff incorporates by reference and reallege
10 paragraphs 1-70 of this Complaint.

11 72. Defendants' above-described conduct interfered
12 and/or attempted to interfere with Plaintiffs' exercise
13 and/or enjoyment of his rights as secured by the United
14 States Constitution and/or California Constitution, in
15 violation of California Civil Code § 52.1.

16
17 XVIII. THIRTEENTH CAUSE OF ACTION

18 Intentional Infliction of Emotional Distress

19
20 73. Plaintiff incorporates by reference and reallege
21 paragraphs 1-72 of this Complaint.

22 74. Defendants' above-described conduct was extreme and
23 outrageous. Said conduct was done intentionally and
24 with conscious disregard of Plaintiffs' rights, and
25 directly and proximately caused Plaintiffs'
26 humiliation, mental pain and suffering.
27
28

XIX. FOURTEENTH CAUSE OF ACTION

Negligent Infliction of Emotional Distress

75. Plaintiff incorporates by reference and reallege paragraphs 1-74 of this Complaint.

76. Defendants' above-described conduct constituted a breach of defendants' duty of care to Plaintiff to ensure that defendants did not cause unnecessary or unjustified harm to Plaintiff. It was reasonably foreseeable to all defendants that a breach of that duty by defendants would cause emotional distress to Plaintiff.

XX. FIFTEENTH CAUSE OF ACTION Declaratory Relief

77. Plaintiff incorporates by reference and reallege paragraphs 1-76 of this Complaint.

78. There is a real and actual controversy between Plaintiff and defendants regarding whether defendants may undertake to act as described herein. Plaintiff contends that defendants violated the United States and California Constitutions and the laws of the United States and of California. On information and belief, defendants deny that their conduct violated the United States and California Constitutions and the laws of the United States and of California. Plaintiff fear that he will again be subjected to such unlawful and

1 unconstitutional actions, and seeks a judicial
2 declaration that defendants' conduct deprived Plaintiff
3 of his rights under the United States and California
4 Constitutions and the laws of the United States and
5 California.

6
7 XXI. PRAYER

8 WHEREFORE, Plaintiff prays that the Court, as to all
9 the defendants and each of them jointly and severally:

10
11 1. Issue a declaratory judgment that defendants'
12 conduct as complained herein was a violation of
13 Plaintiffs' rights under the United States and
14 California Constitutions and the laws of the United
15 States and California;

16 2. Issue an injunction (a) prohibiting defendants from
17 engaging in vehicular stops or searches based on race
18 or ethnicity; (b) ordering defendants to establish
19 effective preventative mechanisms to ensure that
20 discriminatory traffic stops and vehicular searches do
21 not continue in the future, including, but not limited
22 to the following:

23
24 (i) to cease and desist from all pretextual stops;

25 (ii) to cease and desist from all searches without
26 probable cause of criminal activity;
27
28

1 (iii) to collect and maintain comprehensive records of
2 all traffic stops in the city of Sacramento in the
3 State of California, including those stops that do not
4 result in the issuance of a citation; and

5
6 (iv) to establish a procedure to enable each person
7 involved in a traffic stop the right to file a
8 grievance to contest illegal acts and acts motivated by
9 bias;

10 (v) to establish clear and consistent discipline in the
11 event a grievance is sustained;

12
13 (vi) to establish a Civilian Complaint Review Board;

14 (vii) to appoint an independent auditor who will review
15 the records of officers quarterly to determine that
16 there is compliance with these reforms;

17
18 (viii) to establish an early warning system which will
19 collect information such as citizen complaints against
20 an officer and other information regarding misconduct
21 and will alert the officer's supervisor when a set
22 number of incidents are recorded;

23 (ix) to establish a mechanism for internal discipline
24 of officers who are found to have engaged in racial
25 profiling and pretextual stops; and

26
27 (x) to require that all officers participate in regular
28

1 and recurring training to assure that the officers do
2 not act due to bias based on race or ethnicity.

3
4 3. Award any nominal damages entitled to Plaintiff
5 regarding defendant(s) violation of civil rights.

6 4. Award compensatory and general damages against
7 defendant(s) and each of them, for plaintiff in an
8 amount to be determined according to proof;

9
10 5. Award exemplary and punitive damages against all
11 defendant(s) sued in their individual capacities;

12 6. Award statutory damages and penalties pursuant to
13 California Civil Codes § 52(b);

14
15 7. Grant such other and further relief as the Court
16 may deem just and proper.

XXII. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: May 27, 2022.

Signature of Plaintiff

Rogers, Kim Edward, Pro Se

Printed Name: Rogers, Kim Edward

Sacramento Police Department
Personnel Complaint Form

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Complainant:

**You have the right to remain anonymous. Consider providing some information for an investigator to contact you for follow-up questions.*

NAME <u>Rogers, Kim Edward</u>	DOB <u>13 Aug 1964</u>	AGE	GENDER <u>M</u>	RACE
HOME ADDRESS <u>2012 50th Avenue</u>	CITY <u>Sacramento</u>	STATE <u>CA</u>	ZIP <u>95822</u>	
BUSINESS ADDRESS <u>N/A</u>	CITY	STATE	ZIP	
TELEPHONE NUMBER #1 <u>N/A</u>	EMAIL ADDRESS <u>N/A</u>		DATE COMPLAINT RECEIVED <u>13 JAN 2022</u>	

Involved Employee:

**Provide as much information as possible.*

NAME <u>K. SIMMONS JOHN DOE #1</u>	RANK	BADGE <u>693</u>	GENDER	RACE
UNIFORM TYPE <u>SAC. POLICE</u>	VEHICLE DESCRIPTION <u>SUV</u>	VEHICLE NUMBER		

Incident Details:

INCIDENT DATE <u>6 JAN 2022</u>	INCIDENT TIME <u>11:45 AM - ?</u>	LOCATION (ADDRESS OR INTERSECTION) <u>52ND Ave; KING BLVD FLORIN & FRANKLIN - MARTIN LUTHER</u>
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SUMMARY OF INCIDENT: Provide witnesses, locations, address, businesses, available photos and video, etc.

1. CONTACT WAS INITIATED AT FLORIN & FRANKLIN (N/B)
2. POLICE SUV VEHICLE DANGEROUSLY TAILGATED AT UNSAFE DISTANT BEHIND PLAINTIFF. INTIMADATION (1)
3. BETWEEN FLORIN ROAD AND 52ND Avenue PLAINTIFF CHANGED LANES IN ATTEMPT TO OBSERVE POLICE UNIT. POLICE UNIT CHANGED LANES BEHIND ME; INTIMIDATION (2)
4. AT MLK BLVD. & FRANKLIN PLAINTIFF EXITED VEHICLE AND ASKED WHY POLICE UNIT WAS FOLLOWING Rogers, Kim Edward. (See Back of Page)

☒ I have attached 4 more pages to this form.

Your Rights:

You have the right to make a complaint against an employee for improper conduct. California law requires this agency to have a procedure to investigate personnel complaint, provide written description of this procedure, and retain complaints for at least five years.

I have read and understand these rights.

Signature: Rogers, Kim Edward

January 13, 2020

ACCEPTING EMPLOYEE NAME AND BADGE NUMBER	ACCEPTING SUPERVISOR NAME AND BADGE NUMBER	DATE AND TIME
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- ① NAME IS INCORRECT ON FACE
- ② NO RADAR
- ③ CODE 3 SIREN USED TWICE
- ④ TIME IS INCORRECT, I HAVE RECEIPT FROM GOODWILL STORE LOCATED AT 4040 FLORIN ROAD. EXIT TIME STAMP LISTS 11:42:29 AM.

ALLEGED VIOLATIONS BY PLAINTIFF

- ① Violation of the Commerce Clause, Article IV and Fourteenth Amendment to the United States Constitution (42 U.S.C. 1983) interfering with Plaintiff's fundamental right to interstate travel and migration on account of his race and/or ethnicity and/or national origin.
- ② Defendants acts were done in known violation of Plaintiff's legal and constitutional rights, without good faith, and have directly and proximately caused Rogers, Kim Edward, humiliation, mental pain and suffering.
- ③ Remedy sought: Cease and desist from all pretextual stops, and from engaging in vehicular stops or searches based on race or ethnicity.